

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

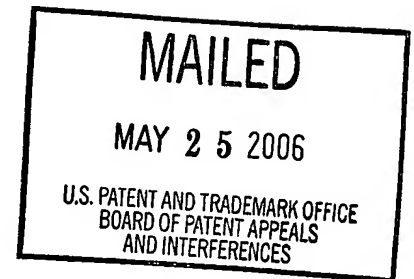
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Ex parte: THOMAS DAVID STARKEY

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Application No. 10/619,985

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received at the Board of Patent Appeals and Interferences on April 5, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below.

EXAMINER'S ANSWER

On November 4, 2005, an Examiner's Answer was mailed. A review of the Examiner's Answer reveals that it is not in compliance with the Manual of Patent Examining Procedure MPEP § 1207.02(a). In the "Evidence Relied Upon" section of the Examiner Answer (section 8), the Examiner States: "No evidence is relied upon by the examiner in the rejection of the claims

on appeal.” However, the Manual of Patent Examining Procedure MPEP § 1207.02(a) states:

(8) Evidence Relied Upon

A listing of evidence relied on (e.g., patents, publications, admitted prior art), and in the case of non-patent references, the relevant page or pages.

Correction of the record is required.

**CONCLUSION**

Accordingly, it is


**Ordered** that the application is returned to the Examiner to

- 1) vacate the Examiner’s Answer mailed November 4, 2005;
- 2) issue a revised Examiner’s Answer to include all required sections as set forth in 37

CFR § 41.37; and

- 3) for any further action as may be appropriate.

BOARD OF PATENT APPEALS  
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A handwritten signature in black ink, appearing to read 'Dale M. Shaw', is written over a horizontal line.

DALE M. SHAW  
Deputy Chief Appeal Administrator  
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DMS/dpv

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